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DEC 09 2008

OFFICE OF PETITIONS

In re Application of :
BORDON-PALLIER et al. : DECISION ON APPLICATION
Application No. 10/780,018 : FOR PATENT TERM ADJUSTMENT
Filed: February 17, 2004 :
Docket No. FRA V2003/0006 US NP :

This is a decision on the "Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance (37 C.F.R. § 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 for the Adjustment (37 C.F.R. § 1.705(b)(2)(i) and (ii))" filed September 10, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 790 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **790 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 30, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment

to date is 794 days. Applicants timely filed the instant application for patent term adjustment¹.

Applicants dispute the reduction of 369 days for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed May 12, 2004. Specifically, applicants assert that they filed a complete and proper response to the Notice to File Missing Parts of Nonprovisional Application on August 16, 2004 (not August 16, 2005).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that the Office incorrectly entered the date of receipt of the reply to the Notice to File Missing Parts of Nonprovisional Application as August 16, 2005, instead of August 16, 2004.² Therefore, the date of receipt of the response on August 16, 2004, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b).

In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 4 days (not 369 days), the number of days in the period beginning on the day after the date that is three months after the date of mailing of Notice to File Missing Parts of Nonprovisional Application, August 13, 2004, and ending on the date the reply was filed, August 16, 2004. Accordingly, the period of reduction of 369 days is being removed and a period of reduction of 4 days is being entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 790 days (794 days of Office delay - 4 days of applicant delay).

The Office acknowledges receipt of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

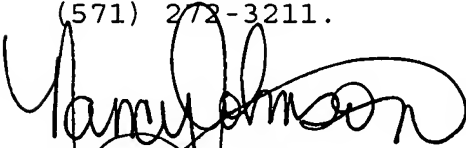
¹ PALM Records indicate that the Issue Fee payment was received on September 15, 2008.

² The response located in the Image File Wrapper for this application contains a USPTO date-stamp of August 16, 2004.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Friday
Date: 12/5/2008

PALM INTRANET

Time: 16:49:43

PTA Calculations for Application: 10/780018

Application Filing Date:	02/17/2004	PTO Delay (PTO):	794
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	369
Post-Issue Petitions:	0	Total PTA (days):	790
PTO Delay Adjustment:	365		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
71	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	369		
60	06/30/2008	MAIL NOTICE OF ALLOWANCE			
59	06/26/2008	ISSUE REVISION COMPLETED			
58	06/26/2008	DOCUMENT VERIFICATION			
57	06/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	06/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
52	06/03/2008	NOTICE OF ALLOWABILITY			
51	05/28/2008	DATE FORWARDED TO EXAMINER			
50	05/19/2008	AMENDMENT AFTER FINAL REJECTION			
49	03/22/2008	ELECTRONIC REVIEW			
48	03/21/2008	EMAIL NOTIFICATION			
47	03/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
46	03/10/2008	FINAL REJECTION			
45	02/12/2008	DATE FORWARDED TO EXAMINER			
44	01/17/2008	RESPONSE AFTER NON-FINAL ACTION			
43	10/24/2007	ELECTRONIC REVIEW			
42	10/23/2007	EMAIL NOTIFICATION			
41	10/23/2007	MAIL NON-FINAL REJECTION			
40	10/15/2007	NON-FINAL REJECTION			
38	08/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	09/09/2007	DATE FORWARDED TO EXAMINER			
35	08/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
34	08/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

33	08/09/2007	PG-PUB ISSUE NOTIFICATION			
32	07/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
29	06/22/2007	ELECTRONIC REVIEW			
28	06/21/2007	EMAIL NOTIFICATION			
27	06/20/2007	MAIL RESTRICTION REQUIREMENT	794		-1
26	06/11/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25	06/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	06/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	05/24/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/17/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
19	05/15/2007	APPLICATION DISPATCHED FROM OIPE			
18	05/03/2007	SENT TO CLASSIFICATION CONTRACTOR			
17	05/03/2007	APPLICATION IS NOW COMPLETE			
16	08/16/2005	ADDITIONAL APPLICATION FILING FEES		369	5
15	02/17/2004	CLAIM PRELIMINARY AMENDMENT			
13	08/16/2005	TRANSLATION OF CLAIMS INTO ENGLISH			
10	08/16/2005	TRANSLATION OF SPECIFICATION INTO ENGLISH			
9	05/18/2004	ADDITIONAL APPLICATION FILING FEES			
8	05/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	05/18/2004	TRANSLATION OF CLAIMS INTO ENGLISH			
6	05/18/2004	TRANSLATION OF SPECIFICATION INTO ENGLISH			
5	05/12/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/15/2004	CLEARED BY L&R (LARS)			
3	03/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2004	INITIAL EXAM TEAM NN			

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